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Figure No. 3 – Coastal Barrier Resource Area (CBRA) Unit Map of
Bogue Inlet

1.7.10 National Historic Preservation Act of 1966 (As Amended)

Archival research, field work and coordination with the North Carolina State Historic Preservation Officer (SHPO), have been conducted in accordance with the National Historic Preservation Act of 1966 (Public Law 89-665), the National Environmental Policy Act of 1969 (Public Law 11-190), Executive Order 11593, the Advisory Council on Historic Preservation Procedures for the protection of historic and cultural properties (36 CFR Part 800) and the updated guidelines described in 36 CFR 64 and 36 CFR 66.

The North Carolina Office of State Archaeology (OSA) protects endangered archaeological sites on private or public lands through enforcement of the North Carolina Archaeological Resources Protection Act (G.S. 70, article 2), the North Carolina Archaeological Records Program (G.S. 70, article 4), and the "Abandoned Shipwreck Law" (G.S. 121, article 3).

Cultural resources investigations of Bogue Inlet include magnetometer and side-scan sonar surveys. Three magnetic anomalies were detected, one on the east side of the existing channel at a point approximately 1,600 feet north of Inlet Drive and two in the central portions of the ebb tide delta. The only anomaly thought to be of historic significance was located in the vicinity of the proposed dike. The two anomalies in the channel area were relatively small and believed to be modern debris such as a crab trap, anchor, or pipe and are not historically significant. The study concluded that no further investigations are needed. A copy of these investigations were sent to the U.S. Army Corps of Engineers, Wilmington District office on July 25, 2003 for distribution to the State Historic Preservation Officer.

1.7.11 Magnuson-Stevens Fishery Conservation and Management Act of 1996

The Magnuson Fishery Conservation and Management Act of 1976, amended Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) in October 1996 and also referred to as the Sustainable Fisheries Act, was enacted by the U.S. Congress to protect marine fish stocks and their habitat, prevent and stop overfishing and minimize bycatch. Congress defined Essential Fish Habitat as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." The MSFCMA requires that EFH be identified for all fish species Federally managed by the Fishery Management Councils and the National Marine Fisheries Service (NMFS).

Eight Fishery Management Councils were developed under the MSFCMA to manage living marine resources within the federal limit water boundary and

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are required to describe and identify EFH designations in their respective regions. Each of these councils are responsible for developing a Fishery Management Plan (FMP) to achieve specified management goals for fisheries. The FMP includes data, analyses, and management measures (including guidelines for harvest) for a fishery.

This Act requires preparation of an EFH Assessment and coordination with the National Marine Fisheries Service. Pursuant to the MSFCMA, EFH consultation with the National Marine Fisheries Service was initiated on July 17, 2003 with the submittal of a Draft EFH for Bogue Inlet.

1.7.12 Fish and Wildlife Coordination Act of 1958

The Fish and Wildlife Coordination Act of 1958, as amended, includes the cooperation with Federal and State agencies "to protect, rear, stock, and increase the supply of game and fur-bearing animals....study the effects of domestic sewage, trade wastes, and other polluting substances on wildlife." The Act also requires consultation with the Bureau of Fisheries, Fish and Wildlife Service and State fish and wildlife agencies where the "waters of any stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted...or otherwise controlled or modified" by any agency under a Federal permit or license. Additional amendments to the Act have "permitted lands valuable to the Migratory Bird Management Program to be made available to the State agency exercising control over wildlife resources. (USFWS, 2003)

Consultation with the U.S. Fish and Wildlife Service indicates that a Coordination Act Report may not be required for this project, however direct coordination and consultation with the Service will continue throughout the development of the project. This project will be in full compliance with this Act.

1.7.13 Migratory Bird Treaty Act of 1918

The Migratory Bird Treaty Act (50 CFR 10.13) was enacted to make the following actions against migratory birds illegal: take (pursue, hunt, shoot, poison, wound, kill, capture, trap or collect), possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of a bird unless permitted under Federal authorization of the U.S. Fish and Wildlife. (USFWS, 2003)

1.7.14 Coastal Zone Management Act of 1972

Enacted by Congress in 1972, the Coastal Zone Management Act (CZMA) does not require, but encourages that each State preserve, protect, restore or enhance natural coastal resources including; wetlands, floodplains,

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estuaries, beaches, dunes, barrier islands and coral reefs, as well as the fish and wildlife that utilize these resources. Since this Act is voluntary, any State that develops a coastal management program from the foundation of this Act will receive Federal financial aid.

The North Carolina Division of Coastal Management has developed and enforces a coastal management plan with the rules and policies that reflects the ideas of the CZMA. The North Carolina Division of Coastal Management enforces this Act using the rules and policies of the Coastal Area Management Act of 1974 (enabled and delegated in 1972; adopted and implemented in 1974).

1.7.15 Ownership of Lands

An Advisory Opinion regarding the ownership of lands in the vicinity of Bogue Inlet was issued by the North Carolina Office of the Attorney General on September 15, 2003 (Gulick, 2003). The Town has received an opinion from the State Attorney General indicating that land raised above mean high water in the areas north of the COLREGS Line either as a direct or indirect result of the project would be owned by the adjacent upland property owners. Therefore, the State of North Carolina would own any land that accretes to that portion of the Emerald Isle sand spit that it presently owns while accretion in other areas would revert to the upland property owners.

Refer to the Regulatory Compliance table in Section 5 (Table 19) of the EIS for the Applicant's Preferred Alternative compliance determinations.